

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

June 24, 1999

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, June 24, 1999 at 1:30 p.m., in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Frank Garofalo, Vice-Chair; Larry Consolver; John C. Frye; George Fulp; Mike Haggard; Bud Hentzen; John W. McKay, Jr.; Harley Miles; Susan Osborne-Howes (late arrival) George Platt; Ray Warren and Deanna Wheeler (late arrival). Bill Johnson and Richard Lopez were not present. Staff members present were: Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Joe Lang, Senior Assistant City Attorney; Keith Gooch, Senior Planner; Donna Goltry, Senior Planner, and Karen Wolf, Recording Secretary.

1. Approval of minutes for April 15, 1999

GAROFALO "I have one correction. I think this was the meeting where I left a little before 6:00 p.m. I didn't notice that in the minutes. You might want to check on that. I guess I slipped out without anybody seeing me. I think it was about 5:45. Are there any other corrections?"

MOTION: That the minutes for April 15, 1999 be approved as amended.

MCKAY moved, **MILES** seconded the motion, and it carried unanimously (10-0).

GAROFALO "These are vacation cases, and are advertised as public hearings. Keith."

2/1. V-2173 – Luxury Development Partners, Inc., request the vacation of a portion of a building setback, described as:

The north 80 foot of the south 100 foot building setback of the following tract: The south 240 feet of the east 230 feet of Lot 1, Block 1, the Manhattan Addition to Sedgwick County, Kansas, containing 55,200 square feet. Generally located north of 21st Street and east of Greenwich.

The applicant is requesting to vacate a portion of a 100-foot building setback to allow the construction of a bank. As part of the rezoning of this property in 1995, a Protective Overlay required a 100-foot building setback from 21st Street North, and a 100-foot setback was platted. Therefore, the applicant has been required to submit an administrative adjustment to the Protective Overlay to reduce the setback from 100 feet to 20 feet.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time June 1, 1999, which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the above-described building setback, and the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of a building setback described in the petition should be approved, subject to the following condition:
 - 1. The applicant shall comply with all requirements of the administrative adjustment.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval, subject to the following condition:

- A. The applicant shall comply with all requirements of the administrative adjustment.

KEITH GOOCH, Planning Staff "This is a request to vacate a portion of a building setback from 100 feet down to 20 feet. This would allow the construction of a bank on this piece of property, located north of 21st Street and east of Greenwich. Staff is recommending approval of this request, and Subdivision also approved the request unanimously. Are there any questions of staff?"

GAROFALO "Are there questions? Is there anyone here to speak on this item? If not, what is the pleasure of the Commission?"

MOTION: That the Planning Commission recommend to the governing body that the request be approved, subject to Subdivision Committee recommendations.

FULP moved, **FRYE** seconded the motion, and it carried unanimously (10-0).

- 2/2. V-2176** – R&L Carpenter Enterprises, c/o James Willbanks request the vacation of a portion of a building setback, located south of Central and west of Edgemoor.

Commencing at the northeast corner of Lot 1, Ronald H. Groves Addition to Wichita, Sedgwick County, Kansas, thence 16.5 feet bearing south to a point, thence 78.0 feet bearing south to the point of beginning, thence 49 feet bearing west to a point thence 18.5 feet bearing south thence 49 feet bearing east to a point, thence 18.5 feet bearing north to the point of beginning.

The applicant is requesting to vacate the 35-foot platted building setback to allow for the reconstruction of the existing Sonic Drive-in. This would allow for canopies to be 16.5 feet off of the right-of-way line. Open outside canopies are permitted to be located five feet in a required front yard-zoning setback. Therefore, the canopy will comply with the Unified Zoning Code once the vacation is completed.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time June 1, 1999, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described building setback, and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of a building setback described in the petition should be approved.

SUBDIVISION COMMITTEES RECOMMENDED ACTION:

The Subdivision Committee recommends approval.

KEITH GOOCH, Planning staff "This is a request to vacate a portion of a building setback located south of Central and west of Edgemoor. This would allow the reconstruction of an existing building, which is a Sonic, currently located on site. Staff is recommending approval of the request. Subdivision also recommended approval unanimously. Are there any questions of staff?"

GAROFALO "No questions? Okay. Is there anyone here to speak on this item? We will bring it back to the Commission."

MOTION: That the Planning Commission recommend to the governing body that the request be approved subject to Subdivision Committee recommendations.

FRYE moved, **WARREN** seconded the motion, and it carried unanimously (10-0).

- 2/3. V-2179** – Boyer Wichita Medical (Owner) Baughman Company, P.A. c/o Russ Ewy (agent) request the vacation of access control described as:

The east 50 feet of the north line of Lot 1, Lancaster Addition, Wichita, Kansas. Generally located east of Hillside and south of Country Club Place.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time June 1, 1999, which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by the vacation of the above-described access control, and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

C. Therefore, the vacation of access control described in the petition should be approved.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval.

KEITH GOOCH, Planning staff, "This is a request to vacate access control south of County Club Place and east of Hillside Avenue. This is to allow the construction of a medical complex on site. This opening would serve a trash facility as well as one handicap van parking space. The eastern 372 feet of Lancaster Addition was platted with complete access control. Staff is recommending approval of the request. Subdivision did recommend approval of the request on a 3-2 vote. Are there questions of staff?"

GAROFALO "Are there questions? Could you show me where the access would be?"

GOOCH (Indicating) "It would be located right there, if that helps you."

FULP "How many other accesses does it have?"

GOOCH "There would be 2 total. This one and one other one on Country Club Place."

KROUT "Can you show us the site plan?"

GOOCH "I will pass it around. I should also explain that there was a variance request on this to reduce compatibility setbacks, which was heard by the BZA on Tuesday. There were several neighbors that showed up. They deferred that request to allow the applicant and the neighbors to communicate about the trash dumpster, as well as other problems on this plan. I think the applicant's agent is here to discuss whether they have reached any agreement with the neighbors on those issues."

CONSOLVER "I don't remember seeing the picture in Subdivision. Are those houses that will all be removed, or have they been removed?"

GOOCH "They are going to be removed. They are currently there."

PLATT "Not all of them are going to be removed."

GOOCH "No, not all of them."

KROUT "Not on the south side."

GOOCH "Not across the street, on the south side. (Indicating) This house is going to stay, and then three houses on the south. That is where the compatibility setbacks come into play."

Wheeler arrived at the meeting at 1:40 p.m.

GAROFALO "Are there any other questions of Keith? If not, we would like to hear from the applicant."

Osborne-Howes arrived at 1:43 p.m.

RUSS EWY "I am with the Baughman Company, agent for the applicant. As Keith mentioned, we are also going through a process of obtaining a Board of Zoning Appeal variances for some other site issues that are basically related to some of the questions that you will have in regard to the trash dumpster. I assume that you all had site plans on at least the relevant portion of the site plan attached to your staff comments. There is a larger, full-scale site plan going around that is going to show you what is going on on the site."

Just to answer your questions, these four homes will be removed. This home on the corner sets on Lot 2, Lancaster Addition. That is owned by Boyer Wichita Medical LLC, the same owner who is developing the medical clinic. That home is relatively in limbo for the time being. They are renting that property and will continue to rent that property. There are 6 homes that will be remaining, wrapping around adjacent to the southeast of our medical facility. The owners of these properties came out in force during the Board of Zoning Appeal hearing, which was held this last Tuesday afternoon, with questions and concerns that would be considered pretty typical.

One of the concerns that they expressed was the location of the dumpster behind the building. Specifically not the location of it being behind the building, more to the point that they didn't want typical residential trash pick up prior to 7:00 o'clock a.m. Our client, Lynn Summerhaze, the property owner, had agreed to enter into an agreement with these homeowners to guarantee the trash pick up no earlier than 7:00 a.m., to which it seemed to meet the homeowner's needs. At no point during the discussion, we listed out in the break room after the BZA hearing, 9 separate concerns they had, the first being the time of trash pick up with this dumpster. Out of all of those 9 conditions, we feel that we have been able to at least agree in principle to allowing them certain

concessions on site design elements, additional landscaping, fencing, lighting, etc., after which it seemed that we were going to have a pretty good set of agreements between these property owners and Boyer Wichita Medical group.

As you can see by the site plan, our medical building is located towards the center of this property. It is kind of a unique shaped property; it is 'L' shaped. The reason we are asking for this access opening towards the rear of the building is simply for trash pick up as well as limited service delivery towards the back. As you can see, it does occupy one of our required handicap van parking stalls. This access drive will have very limited use in that regard. This site currently, and the medical building as proposed were currently at capacity or right around our required parking stalls, which is shown in the front along Hillside. During the design of this site, the owners expressed interest in keeping the building off of Hillside in order to locate the parking and all of the ingress and egress for the medical facility out towards Hillside.

That is pretty much the reason why the dumpster is placed where it is. The dumpster is actually placed in a location that will remove it from an existing residential house, the furthest distance of any place on our property, or approximately 75 to 80 feet north of the property owners along Orchard. We are approximately 70 feet from this gentleman's house, the closest property owner to the dumpster itself. With that, I will be more than happy to answer any questions you may have."

MCKAY "Did you consider flip-flopping this?"

EWY "Yes. As a matter of fact, a lot of the orientation of the medical facility and the parking obviously associated with it is really going to be dictated to a large extent on the granting of that BZA variance for the compatibility setback standard. As Plan 'B', they had proposed moving the medical building along Hillside, adjacent to Hillside with the parking back in this area here. So they do have an alternative site plan that shows the building right along that 20-foot front yard set back along Hillside with the parking in the rear. In the discussions with the property owners surrounding this site through the BZA hearing, none of them wanted..."

MCKAY "I am not talking about the whole site, I am talking about sliding the van location south and putting the trash dumpster over, and moving the driveway over. You wouldn't have near as long of a driveway and you are further away from the existing house."

EWY "That would be an option."

MCKAY "That is what I meant by flip-flopping."

EWY "I am sorry. Actually, that was something that was directed to me by the client to do as part of the discussion with the property owners, to see if we could get that dumpster and that van access flip-flopped. We haven't re-designed the sites to do that."

MCKAY "If you did that, you could actually build a fence around the dumpster. If the BZA gives you the variance, you could build a fence around the dumpster that could come straight in, and you would still have access and it wouldn't be sideways to the van location or anything."

EWY "Right. And where the trash dumpster is located now, we could also screen that further also."

MCKAY "That is only 15 feet, and don't you have to be 20 feet from the back property line?"

EWY "And that will have to be moved as part of a condition that the staff comments for the BZA pointed out."

MCKAY "But you aren't opposed to doing that?"

EWY "No."

KROUT "I don't know the details of what access you have today and what exactly you are vacating, but is it possible that this driveway might shift somewhat as a result of your discussions and we should really wait and see how those discussions go with the BZA first?"

EWY "No. The BZA doesn't touch on this issue. The access control is for the east 50 feet along Country Club place. We are pretty much centered within that 50 feet. We could easily shift that driveway over to the west to accommodate the required 20-foot setback. What you are seeing there, as far as the design of that drive approach, as well as the van access, is pretty typical design 15 foot radius or 10 foot radius and a 16 foot drive opening for the service drive.

Like I said, the BZA concern had more to do with the trash pick up time than with the fact that the trash dumpster is located there. For one thing, it is located closer to our client's property than it is to any other property."

FRYE "You mentioned the other concerns that the neighbors had. I wasn't sure whether I heard you say you did come to an agreement or you had sort of come to an agreement. It was sort of vague to me. What is the answer?"

EWY "Let me reiterate that. During our discussion, we first proposed looking at the ability for us to re-design that, to move the dumpster, like Commissioner McKay pointed out, to move that dumpster. Second of all, if we couldn't move the dumpster and satisfy all of the other requirements, then we would propose some sort of screening around that, like you find in other commercial trash areas.

The third thing that was discussed and promised to agree to by our client, was to set an agreement by where the trash would be picked up no earlier than 7:00 a.m., which was their main concern, as I said. Those are the three things that we really discussed as it relates to this dumpster."

FRYE "And they are satisfied?"

EWY "They are very satisfied, yes. And I might want to add that there might be a 6 to 8 foot screening wall along this east property line. That is part of Code requirement."

FULP "A moment ago, Russ, you mentioned that there were 9 concerns from the residents in the area, and those 9 items have been worked out. Now you are saying there were 3?"

EWY "No, I am saying there were three issues related to that one concern on the dumpster. There were 9 general classifications of concerns with several sub sets."

FULP "Okay. How is this getting incorporated....did you say there was going to be a written agreement?"

EWY "As far as trash pick up, yes."

FULP "What about the other 8 sub concerns?"

EWY "We will have to satisfy those to the agreement of these 6 property owners prior to the Board of Zoning Appeals hearing of this case on July 27."

FULP "Marvin, how does that accomplish, is it incorporated as part of the platting, or what? You can't make it part of the vacation."

KROUT "It is awkward to make it part of the vacation. They could become conditions of the BZA. I don't know if that was the applicant's intent, or whether they were proposing to do this as a private agreement. There are sometimes private agreements."

FULP "How are you proposing to do it, Russ?"

EWY "However we can. If we can make it part of the BZA conditions, we will. I think during the process of hearing that BZA case, it was made clear to us on no uncertain terms that we had better find some sort of agreement with these folks if we hope to get that variance. So, we understand that whatever commitments we make we will stick by."

FULP "So actually, these commitments do not come under the purvey of this body, per se."

KROUT "Not if they are required as part of the variance approval."

FULP "Thank you."

PLATT "You mentioned that there were a number of neighborhood folks at the BZA meeting. Were any of them from the north side of Country Club Place?"

EWY "No. And they were notified within a 200 foot radius."

KROUT "And they were notified of this hearing also, weren't they, Keith?"

GOOCH "Yes."

KROUT "We will see if any of them are here."

PLATT "I have one more question. Could you live with the requirement of the vacation approval that the dumpster be relocated to where you have the parking space now?"

EWY "Not being a designer myself, I really don't know if I can commit to that strongly. What if we can't make that work? I don't know. I don't draw these things up, I just get to present them to you with the hope that you don't ask me questions like this. I don't know if you can turn a trash truck on a 10-foot radius versus a straight shot like that."

KROUT "My suggestion would be that since this has to go to the Board of Zoning Appeals, maybe if you don't feel that you have that answer, maybe you could defer this, since the Board of Zoning Appeals is going to hear this more than a month from now anyway."

MCKAY "I have a comment. I would just like to see whoever the artists are in your organization come up with some kind of thing. You don't have to make a turn. You can back straight in and have a wider drive and then back straight in. Putting this van thing to the south and putting the trash over. That would give you a lot of open space that you can use to screen away from that house."

GAROFALO "Are there any other questions of the applicant? Is there anyone else here to speak on this item? If not, we will take it back to the Commission."

MOTION: That the item be deferred until the MAPC meeting following action by the Board of Zoning Appeals.

FULP moved, **CONSOLVER** seconded the motion.

EWY "That would be Tuesday, July 27."

KROUT "Then July 29, two days later, would be the Planning Commission meeting."

WARREN "Would that have an adverse effect?"

EWY "No. We would be able to proceed with construction on a conditional basis after your approval of the vacation, I assume, although this would have to go to the City Council. It is not going to defer it later than the BZA deferral. I don't see a problem with it."

VOTE ON THE MOTION: The motion carried with 12 votes in favor. There was no opposition.

2/4. Security Self-Storage, c/o Bill Ard request the vacation of a portion of a building setback, described as:

The east 20 feet of the west 30 feet of the south 175 feet; together with the north 10 feet of the south 30 feet; together with the northwestern 5 feet of the southeastern 30 feet of Lot 3, Westwind 5th Addition, Wichita, Sedgwick County, Kansas. Generally located north of 21st Street and east of Tyler.

KEITH GOOCH, Planning staff, "This is a request to vacate a portion of a building setback located south of 21st Street and east of Tyler. This will allow the construction of self-storage units on site.

The applicants are requesting to vacate the 30-foot plat of the building setback along the west, south and southeast piece of this property. The west vacation would be from 30 feet down to 10. The south would be from 30 down to 20, and the southeast would be 30 down to 25. Staff is recommending approval of the request, subject to the applicant submitting an administrative adjustment to reduce the 30-foot building setback along the southeastern property line on the CUP, 25 feet which would match this vacation request. The other two property lines, the west and the south currently will match the CUP after the approval of this vacation if it is approved.

The Subdivision Committee did recommend approval of the request, subject to this condition unanimously. Are there any questions of staff?"

GAROFALO "Are there any questions? Is there anyone here to speak on this agenda item? If not, we will take it back to the Commission."

MOTION: That the Planning Commission recommend to the governing body that the request be approved, subject to the Subdivision Committee recommendations.

FULP moved, **WARREN** seconded the motion and it carried unanimously (12-0).

Subdivision Committee items 2/5, 2/6, 2/7 and 2/8 were approved, subject to the Subdivision Committee recommendations **FULP** moved, **FRYE** seconded the motion, and it carried unanimously (12-0).

2/5. **S/D 99-28** - Revised One-step final plat of LAMBERT - BAIRD 2ND ADDITION, located on the north side of 47th St. South, West of Oliver.

- A. Sanitary sewer and public water is available from Oaklawn to serve the site. County Engineering needs to verify if any guarantees or easements are required. A letter of verification will need to be provided from Oaklawn regarding provision of sanitary sewer and public water.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. County Engineering needs to comment on the status of the applicant's drainage plan. A drainage plan needs to be submitted. A cross-lot drainage agreement may be required.
- D. County Engineering needs to comment on the access controls and the need for joint access. The plat has denoted two openings along 47th St. South for the western lot and one opening for the eastern lot. County Engineering has limited the site to one access opening along each lot.
- E. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that

adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.

- F. The legal description in the plat's text needs to be revised to accurately portray the land being platted. It appears that the dimension of "365 feet" should be revised to "375 feet".
- G. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The County Commissioners signature block need only include the signature of the Chairman.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in Release 13 version of AutoCAD. This will be used by the City and County GIS Department.

2/6. S/D 99-31 – Final Plat of WOODLAND WESTFIELD 2ND ADDITION, located on the north side of Maple, west of Tyler.

- A. The Applicant shall guarantee the extension of City water and sanitary sewer to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. A guarantee for drainage improvements is required.
- D. A guarantee for a driveway closure along Maple is required.
- E. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- F. The final plat tracing shall reference a tie point to a section corner.
- G. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- H. The applicant shall guarantee the paving of the proposed interior street.

- I. The joint access easement through Lot 11 needs to be established by separate instrument.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in Release 13 version of AutoCAD. This will be used by the City and County GIS Department.
- T. The Water Department requests the extension of the existing water line to the north line of the plat. The properties to the east should be incorporated into the benefit district.

2/7. D-1762 – Owner/Applicant Kenneth and Marilyn Pauly, request the dedication of additional right-of-way for 103rd Street South and 199th Street West, described as:

The south 20 feet of Tract A of the property; and a strip of land in Track B of the property, 30 feet in width to the north of the existing road right-of-way for 103rd Street and 30 feet in width to the south of the existing road right-of-way is located in the NW 1/4 of Section 29, T29, R2W of the 6th P.M. Generally located east of 199th Street West, between 95th street South and 111th Street South.

This dedication is a requirement of Conditional Use CU-509 and is being made for the purpose of additional right-of-way.

2/8. D-1763 – Keith and Marga Harrington request the dedication of additional right-of-way for 215th Street West and 111th Street South, described as:

The west 30 feet of the property and the south 20 feet of the property located in the SW 1/4 of the NW 1/4 lying south of the center of the Ninnescah River, in Sec. 30, T29S, R2W of the 6th P.M., Sedgwick County, Kansas, except a tract 13 rods square in the SW ¼ for cemetery. Generally located north of 111th Street South and east of 215th Street West.

This dedication is a requirement of Conditional Use CU-509 and is being made for the purpose of additional right-of-way.

FRANK GAROFALO, Vice-Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the

Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

ZONING:

Item taken out of order:

5. **Case No. CU-524** – Roger Carpenter and Gerald A. Farha (owners); Gene Razook (agent) request Conditional Use to permit vehicle sales outdoors on property described as:

Lot 3, Jabara 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of Murdock and West Street.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is requesting a Conditional Use to allow vehicle sales, outdoors, on a 0.462 acre property located on the northwest corner of Murdock and West Street. The tract is zoned "LC" Limited Commercial. The sale of vehicle and equipment with outside display/storage requires a Conditional Use within the "LC" Limited Commercial Zoning District.

The application area was the location of a former Sonic drive-in restaurant. The site plan proposes to convert the old restaurant building into the general sales office facility and to use the drive-in car stalls for display space, with the cars backed into the stalls. Additional display area is shown on along West Street and along on the north property line. The applicant intends to specialize in classic vehicles particularly from the 60s to compliment the "drive-in" appearance of the lot, but intends to offer later model and "up-scale" vehicles also.

The site plan indicates installation of a wrought iron fence three feet in height along West and Murdock. There is an existing wood fence along the north property line. This fence is a little taller than three feet and separates the application area from the adjacent commercial use. There is an existing wood fence that is labeled as being six feet in height, but is closer to five feet six inches, and is located five feet beyond the boundaries of the property, according to the site plan. This fence would not constitute a screening fence for the property since it is not under control of the applicant and, from field inspection, it appears to be less than the six feet required for screening fence between non-residential and residential uses. The landscaped area extending eastward from the building to West Street is shown removed and replaced with outdoor storage for four additional vehicles. A revised site plan would be needed in order to retain adequate square footage for required landscaped street yards along West Street (arterial), which would possibly reduce the amount of display space for vehicles.

The Unified Zoning Code requires auto businesses to provide customer parking at the rate of two spaces for the first 10,000 square feet and one space per each additional 10,000 square feet of lot area used for vehicle sales, display, or storage purposes and one space per 500 square feet of building area. The site plan shows approximately 18,000 square feet for vehicle sales, display and storage, which would require a total of three spaces. The building (1,020 square feet) would require three additional parking spaces, for a total of six parking spaces. The site plan shows only four spaces, however a display space could be re-designated for parking purposes on a revised site plan.

The site plan shows one existing drive on West Street and two existing drives on Murdock. The drive on the eastern end of Murdock is only ten feet from the right-of-way line of West Street. In addition, it does not provide customers with access to the customer parking areas on the north side of the building since the area along West is blocked by display space and the sign. The closure of this drive would remove a point of access that is closer to the West Street intersection than is desired, and still maintain a flow of customer circulation from West Street to the customer parking spaces and then existing onto the western drive onto Murdock.

The application area is located in the same block as the previous zoning request for outdoor vehicle sales (CU-521). Situated in this block of West Street between Murdock and 9th Street is a mix of small-scale commercial uses. The mix includes freestanding structures, a small commercial center, and several houses used for commercial purposes, as well as the two houses still used as residences. The range of commercial uses include: restaurants, tavern, alterations shops, insurance offices, personal care services, service station, and auto parts and repair, etc., with most being neighborhood-serving retail uses. There is no other outdoor storage in this block, or in any portion of West Street north of Central. An apartment complex, Westview Apartments, is located across the street to the northeast. The commercial uses south of Murdock include a butcher shop, and more restaurants and service-oriented businesses. Single family residential properties are located west of this site facing onto Colorado Street and adjoining the rear property line. This is a well-maintained residential block of single family residences. There is a small apartment complex to on the southeast corner of Colorado and Murdock, and a church on the southwest corner.

The general intensity of commercial uses along West Street is highest near Kellogg and tapers off to the north. The only outdoor vehicle sales businesses facing onto West Street between Kellogg and 21st Street are K & N Kawasaki and Carco between 2nd and 3^d, and Advantage on the northeast corner of Douglas. All three are located between Douglas and 3^d, more than one-half mile to the south of the application area. The intersection of Central and West street is a good ending point for these outdoor display uses since the intersection is bordered on the southeast and southwest corner by shopping centers that function as major neighborhood retail centers. The segment between Central and 9th is a mix of small scale commercial and occasional residential, but with no outdoor storage. The segment north of 9th is residential/office except at commercial corners.

CASE HISTORY: The property was platted July 7, 1970 as Jabara Second Addition. Access control is limited to one opening on the lot along West Street, as shown on the site plan.

ADJACENT ZONING AND LAND USE:

NORTH: "LC" Limited Commercial;	Commercial uses
SOUTH: "LC" Limited Commercial;	Commercial uses
EAST: "LC" Limited Commercial;	Apartments, commercial uses
WEST: "SF-6" Single Family;	Single family residences,
"MF-29" Multi Family apartments	

PUBLIC SERVICES: This site has access to West Street, a five-lane arterial. The existing traffic volume was 18,439 (ADTs) in 1997. The 2020 Transportation Plan estimates these volumes will remain stable. Municipal services are available to serve this site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for commercial uses. The commercial locational guidelines of the Plan recommend that commercial uses not located in planned centers, including auto-related uses, should be guided to cluster in areas such as CBD fringe, segments of Kellogg and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses and utilities can support these uses.

RECOMMENDATION: Staff does not feel vehicle sales is an appropriate use at this location because there are no other outdoor vehicle sales lots in the immediate vicinity, and due to the outside storage associated with vehicle sales, which is not permitted for other "LC" zoned properties along West. The nearest vehicle sales lots are 0.6 mile south of the application area. The approval of this request could establish the precedent of vehicle sales along West Street, north of Central, that does not conform to the Comprehensive Plan. The presence of another case only two lots north of this application area for outdoor vehicle sales indicates that approval of one of these applications would probably result in the transition of the commercial area north of Central to additional car lots.

Based upon information available prior to the MAPC, planning staff recommends this request be denied. However, if the Planning Commission believes this is an appropriate use staff recommends approval be subject to the following conditions;

1. No more than 34 vehicles can be for sale on the sales lot at any one time.
2. This property shall be developed in accordance with a revised site plan that shows the required 6 parking spaces for employees and customers. The site plan shall also designate which spaces shall be used for customer and employee parking and which spaces will be for the display of vehicles. The required customer and employee parking shall not be used for any display of vehicles. The easternmost drive onto Murdock shall be removed.
3. All parking, storage, and display areas shall be paved with concrete, asphalt, or asphaltic concrete. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
4. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be done on the premises without first obtaining "GC" General Commercial zoning.
5. Only those signs permitted in the "LC" zoning district shall be permitted on this site, except that no portable, flashing, moving or off-site signs shall be permitted and no streamers, banners, pennants, pinwheels, commercial flags, bunting or similar devices shall be used.

6. No sound projecting devices or loudspeakers shall be used on-site.
7. There shall be no use of elevated platforms for the display of vehicles.
8. The applicant shall comply with landscape street yard requirements and parking lot screening of any required parking spaces along West Street and Murdock, and with buffering along the rear property line adjacent to residential use.
9. Any violation of the conditions of approval shall render the Conditional Use permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site has commercial developments located to the north, the south and the east, which are zoned "LC" but are not permitted outside storage. An apartment complex is located across West Street to the northeast from the application area on "LC" zoning. The property west of the site is single family residential. The property to the southwest is an apartment on property zoned "MF-29" and a church. The nearest outside auto display lots are 0.6 mile away.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: This general area is characterized by mostly small neighborhood retail uses and residential nearby. The outdoor storage involved with the vehicle and equipment rental business is not compatible with the uses found in this general location.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Comprehensive Plan recommends auto related uses be located along CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses and utilities can support the uses. The application area is not along the CBD fringe, Kellogg, nor are any other similar uses found in the general vicinity. Therefore, this request does not correspond to the Comprehensive Plan. The approval of this request could possibly allow for additional vehicle sales operations to be located along West Street to the north or south of this site.
4. The suitability of the subject property for the uses to which it has been restricted: "LC" retail uses not involving outdoor storage of vehicles would be appropriate at this location.
5. Impact of the proposed development on community facilities: The use of this property should have limited impact on the community facilities.

GOLTRY "I will stand for questions."

GAROFALO "We dealt with this case before and it went to the City Council, right?"

KROUT (UNABLE TO HEAR FIRST SENTENCE BECAUSE OF BACKGROUND TALKING. "It was the corner property on West Street, sent to the City Council and now is being sent back to you. Originally we were going to try to put both of these on the same agenda, but the applicant's agent had a conflict and asked us to reschedule his case."

GOLTRY "I will show you the slides."

HAGGAR "How did the CPO vote on the case that is coming back to us?"

GOLTRY "They recommended disapproval of it. I believe it was for 4-1 for disapproval. If you will note in the final paragraph on this blue sheet that is just coming around, they mentioned the fact that one of the reasons was that they knew that there was controversy associated with CU-521. If you will read the last paragraph, one of the members of the CPO stated that the this was based on vehicles already being at that location and he noted that it was having problems gaining approval and he was concerned with the current request because of the problems with the previous one."

HAGGAR "One more question, Marvin. I just want to get some information. And then there was some protest petitions when the case went to the City Council. Do we have a protest petition on this one?"

GOLTRY "No. Generally we receive our protest petitions post MAPC meetings. In the previous case, we received protest petitions. They have also attempted to rescind the petitions."

HAGGAR "So how do we get the CPO Council in one location adjacent, it is okay, and the next one is 5-0. How does staff see this, I mean in terms of the protest petitions and both of these. Can you advise us of anything more other than just one day they like it and the other day they don't like it? Is anything going on, Marvin, as far as policy making?"

GOLTRY "If you will read the last paragraph of the staff report. Basically they were concerned with the fact that there were problems with the protest for CU-521, and that there were problems with it at City Council and it caused them to look at things differently."

HAGGAR "I was at City Council, that is the reason I am asking."

GOLTRY "You were? Then you are aware."

HAGGAR "I was at the City Council meeting, and I heard all of the real great debate they do over there. So I guess what I am asking, Marvin, is is there a policy that the City Council is going to do with regard to this? Are we waiting on some kind of a policy decision, is that what it is?"

KROUT "No, I think we are going to this sort of messy process of establishing what the policy is going to be, what it has been in the past and we are going to change the policy. We are doing that by this series of three or four cases that we have. That may lead to either a change of policy or a change in the Ordinance, possibly, depending on how these cases go. I think that I would interpret what the CPO said as saying 'gee, maybe if we knew that that first case was controversial and it had protest petitions, we would have voted differently'. That is why they voted differently on the second case."

On that first case, just for your information, when it comes forward, there were twelve protests that were filed after the Planning Commission meeting. There were nine of those protests that were submitted on the day of the City Council meeting, rescinding their protests, too late, in our opinion, to be counted from a formal standpoint, to be withdrawals. So it still required six votes to approve that particular case. Because of the uncertainty of how do the neighbors really feel about this, that is the main reason, I think, that in the last minute nature of those rescinded protest petitions, is why the Council sent it back is so there would be another opportunity for the neighbors to clarify how they felt about that case."

GAROFALO "Are there any other questions?"

KROUT "I have a question. Can you clarify, the conditions call for the street yard landscaping to be a requirement, and yet the site plan shows that the only landscaped area, which is the middle area there, would be removed, so maybe the applicant can explain better if they are going to tear up other concrete and revise the site plan to provide landscaping, or are they really not going to comply with the landscaping?"

GOLTRY "We talked about that. I wasn't certain, and probably Dave can speak more to that, but I am not certain where he is going to come up with it. He only has to provide the street yard landscaping requirement along West Street, which is the arterial street, and then the buffer along the rear because it is adjacent to the 'SF-6', but even at that, with pulling out the landscaping that exists in front of the building line where the existing Sonic office building is, I think they will be up against some square footage needs."

MCKAY "During your presentation, you mentioned the fact that there were fences, I think to the west and north side, but they were improper height. Is that correct?"

GOLTRY "The one on the north is actually not a required fence, so we wouldn't be focusing on it. I pointed that out just for informational purposes. The one on the west, because it is adjacent to 'SF-6' property, they are required to have a 6 to 8 foot high screening fence, and the fence does appear to be on their property. It doesn't appear to be 6 to 8 feet in height."

MCKAY "Well, on this layout it gives, it says 'an existing 6 foot wood fence.'"

GOLTRY "And it is actually shown as the back one, which is on the other people's property. There are actually two fences out there. It is a bit confusing."

MCKAY "Well, is there a 6 foot fence there?"

GOLTRY "No. There are two less than 6 foot high fences."

MCKAY "Okay. My next question is, what, in the CPO meeting, this person spoke from the Historic Mid-Town Citizen's Association. Since when is this in that area? For what reason would they be there to talk on it?"

GOLTRY "I would assume that they were there as concern for city-wide policy on the expansion of outdoor vehicle sales in areas of the city other than where we have traditionally recommended their approval according to the Comprehensive Plan."

MCKAY "So this guy doesn't like him. Is he really, truly representing this organization? Have you found out? Or is he just representing himself and happens to be a member of it?"

GOLTRY "He is the president of it."

MCKAY "What do the rest of the other members think?"

OSBORNE-HOWES "He said he was speaking on behalf."

MCKAY "He did say he spoke on behalf, but I wondered what does that have to do with Murdock and West Street."

OSBORNE-HOWES "I was just curious. I don't know if this is the right time to ask this, but we are getting a lot of requests for small used car lots in areas where they haven't been located before."

FRYE "Marvin told us that would happen."

OSBORNE-HOWES "Right. So it looks like the citywide policy is slowly creeping away. I am just curious as to what is happening in other cities, or if we can look to see whether other cities have faced this issue."

KROUT "I was able to do a little bit of research, and then I think if we looked at ordinances for other cities in Kansas and Nebraska, I think all of the cities ordinances place auto sales in the heaviest of their commercial districts. In other words, they would have placed it in their General Commercial district and not have the opportunity for a Conditional Use process like we have in a Limited Commercial district."

OSBORNE-HOWES "So they don't even allow it unless it is re-zoned."

KROUT "That's right. Then further south on West Street, we do have General Commercial and even Industrial zoning along some of that street, but not in this stretch."

OSBORNE-HOWES "Well, how did this come about that wouldn't allow this loop-hole?"

KROUT "Well, I wouldn't call it a loop-hole. I think the thought at the time was that there may be places where it is appropriate, where the pattern is established or it is appropriate, like along Kellogg, to have highway oriented uses and rather than just to allow it to be done under General Commercial requiring the Conditional Use process was a way to get them in the door and to be able to review a site plan and place special conditions on it."

OSBORNE-HOWES "Well, that is different, and if we are saying there are times and locations for general use, and that means we have to be pretty clear on when it is allowed and not allowed everywhere, right?"

KROUT "Well, we thought the Comprehensive Plan was pretty clear on that, but now we are going through this new evaluation of policy."

OSBORNE-HOWES "Well, we are really bending this. I am real anxious to hear what the agent says, but this backs right up to residential. I am struggling with this."

WARREN "I would like to see us go ahead and listen to the applicant."

OSBORNE-HOWES "I agree. I was just curious."

WARREN "To be more specific to this case rather than cases in general."

OSBORNE-HOWES "I was curious because it might affect what I would ask the public."

GAROFALO "If there are no other questions of staff at this point, we will hear from the applicant."

DAVE YEAROUT "I am with Yearout Associates, here on behalf of the applicant, who is Jerry Farha, who is in the process of purchasing the property from Mr. Carpenter. Mr. Carpenter is the one that seems to own several of the Sonics around town. I have run across his name in the past regarding Sonics."

As Donna noted, this is a former Sonic drive-in facility, and you saw, from the aerial photos that most of the improvements still remain. Mr. Farha's plan is to utilize that drive-in restaurant setting with the awning and everything as it sits today as a means to place in and focus, as much as he can, on 50s and 60s classic vehicles to build around that drive-in theme, and to utilize that appearance. It is for outdoor vehicle sales. Vehicle sales is an allowed use by right in 'LC'. It is the outdoor aspect of it that requires the Conditional Use.

We think that this is going to be considerably less intensive than a whole number of things that could occur in 'LC' zoning that would be much more detrimental to the neighborhood, particularly the residential neighborhood to the west. If this particular facility was re-established again as an eating establishment of some kind, including even a drive-in eating establishment, that would probably have a lot more detrimental impact on the residential neighborhood to the west than we are talking about with what we are proposing here. As we noted in our request, we are proposing to take this area along in here and a wrought iron fence, much like what is on the facility down here at Broadway and Central, will be used to provide the security across the West Street frontage and across the Murdock frontage. You can see here what this facility looks like. Mr. Farha has agreed, in response to Marvin's question that we will remove the proposal to use the interior space underneath the awning from car lot display. We will leave the landscaping and leave that grassy area as it sits today. That will not be taken out.

You can see, in the background, the wooden fence. It doesn't show up real well. There are two wooden fences there. The one that exists is on this property, it is right at the edge of the curblin of the paved area back in there. Donna said she stood beside it and it was about the same height she is, about 5' 5" or 5' 6". It is not 6 feet. Mr. Farha says he will replace that with a 6-foot wooden fence to comply with the requirements. It will also make it a new fence. The rest of the request of staff in terms of what goes on with this site plan, we will comply with. We will put and designate 6 spaces along this north side as a combination 3 for customers, 3 for employees to comply with the overall requirements. We would probably be under the 3 employee requirements were it not for the foyer that exists on the front end of this building. But he intends to keep that, at least for the time being, and that does put it over the 1,000 square feet, which does trigger that third stall.

He has indicated a willingness to close this drive on Murdock so that the access will simply be as it exists now off of West Street and as it exists on Murdock at the west side of the property. The other stipulations and requirements in the staff's recommendation of conditions if approved, we would agree to. We would like to add to that both the hours of operation and also that the only lighting on-site be what is existing today, which is basically lighting underneath the canopies and a little bit of neon around the outside, but

no string lights, no spotlights, no other free-standing lights beyond what exists on-site. We would like to add that as a condition to approval. The hours of operation that we attached to our submittal, that talk about when it would open and close both winter and summer. Those hours we would also like to have in the conditions as well.

I would like to address the CPO meeting a little bit. Donna had a late commitment that came up and so she was not able to attend. There was no one else from staff at the CPO meeting. It is a little misleading to talk about that five citizens spoke. Of those five citizens, only one of them lived in the neighborhood, and it was the gentleman that manages the apartment complex on West Street across on the other side, just north of this facility, who is also opposing the proposed car lot sales on Fansler's property. Everyone else there was representing a homeowners' association or a neighborhood association that was physically removed from this property. One of them may have included someone, who has the residential property adjacent, but there were no citizens or residents that live in this immediate area at the meeting, and there was no voice of concern or opposition at all.

The CPO Council did acknowledge that they did vote for the other case, CU-521, but as noted in the minutes, and it is a correct statement, that was because there was no expressed opposition to that case at the CPO Council meeting. I do think it is important to note that the only opposition came from the organization that are within Council District #6, including a written prepared statement that we have not ever obtained a copy of, from the Midtown Historic Association. Whether or not those associations voted to take those stances or whether they were just there saying 'I am from that member and here is what I am saying' I don't know. That was not stated one way or the other.

We made the point at the CPO Council meeting, and we make it again here. We think this use has significantly less traffic impact, significantly less noise impact, significantly less odor impact, significantly less impact from hours of operation than any number of things that could happen in the 'LC' district, including another restaurant that could be a lot more detrimental, if you will, and have a lot more of an impact on the neighborhood to the west and it is already zoned for that. If those kinds of uses were being proposed, we wouldn't be here. Perhaps there is a need to have a serious debate about whether or not car sales lots, that is what we are talking about, really are so harmful and so onerous to warrant the kind of review by the City to be established in an 'LC' district, given the fact that there any number of uses in the 'LC' district by right that probably have much more of an impact.

It may warrant that kind of policy debate, but we feel that we meet both the standards and the spirit and intent of the Code as written, and what is proposed, we have offered the conditions to further mitigate so that we are less intrusive. We would even add one more. In your Condition No. 4, that says 'automotive service and repair work be conducted on site in a building', we would stipulate that no automotive repair work or service work happen at all. That this not to be allowed or converted or used as a repair shop. The limit of servicing will be probably a young individual or employee who will go out and wipe the cars down, but that is going to be it.

As I said, we will retain, in the middle, the grass area and the existing landscaping that does show up in this. There are some mature trees and some shrubs that are already there. We will keep those. But we would ask for your support and approval and note that we are not having as much of an impact as some other things that could occur.

I would talk about the sign. The intent is just to simply change the sign face out. There will be no other physical changes being proposed at this time. And the condition on signage, we will comply with. I will be happy to answer any questions."

OSBORNE-HOWES "I think I have two questions. The first one, just more or less for clarification. You said that there was one person who lived in the area that spoke. I thought you said that there were some other neighborhood associations represented, and one of them may have covered the neighborhood."

YEAROUT "I don't know the names of all of the neighborhoods and all of the homeowners' associations out there."

OSBORNE-HOWES "But it was someone from the association that covers that area?"

YEAROUT "I didn't get all of the notes, and unfortunately, the CPO's staff notes don't clarify which ones they were representing. It was my understanding, from one of the ladies that was there that she was from the neighborhood association that included the residential property to the west. But I can't tell you her name, nor the name of the area."

OSBORNE-HOWES "Well, you were the one who brought it up."

YEAROUT "Yeah, but they stressed repeatedly that they were talking from a neighborhood association prospective and not from an adjoining property-owner's prospective, save for the apartment."

OSBORNE-HOWES "Okay. Then the second question I have is that you are basically saying that your belief is that this use would be less intensive and would be kinder to the neighbors and the neighbors would prefer a used car lot next to them, rather than a restaurant. Is that just your opinion? I guess the reason I am asking you is that Marvin just got through bringing up that most cities wouldn't even allow it in this selling area."

YEAROUT "Well, I am familiar with a lot of cities rules also, and I don't know that most would relegate car sales to the most intensive commercial. I would be interested to know which communities those were. There are some that are very strict, but it is a wide range of opinions. As much as anything, it is my professional opinion, yes. It is my opinion, based on working these kinds of cases for the last 27 years in a large number of communities across the state."

OSBORNE-HOWES "But it is just your opinion?"

YEAROUT "Yes."

GAROFALO "Are there any other questions?"

KROUT "As long as you talked about your professional opinion, Dave, and I know it is hard to take off a consultant hat and put on a Planning Director's hat...."

YEAROUT "I think Russ left. I think we are cannon fodder. I think that is what happens when we come up here."

KROUT "But if you were on the other side, here, and you were advising from a professional standpoint how to deal with this from a policy standpoint, I mean it seem like we have three choices at least. One is to continue to review these case-by-case, like we do now, and deal with these controversies. Another is to say 'let's just kind of give up'; and agree we don't want to hear these, every time we have one of these it is that a drive-in restaurant would be more traffic and more noise and longer hours, and so anything is better than a drive-in restaurant. That is kind of the James Gardner, Jr. argument. Whenever we used to have a zoning case in the Country, he would say, 'it could be a hog farm, it could be worse'.

But one possibility is to say that we will allow it in the 'LC' district but we will attach all of these standards that are typically standard conditions and put them in the ordinance; many of them already are, and just say that we will allow this with all of these other uses which may be more intensive, at least from some standpoints. Or, we could say, let's try to be more clear on the intent and say that this use really ought to be clustered, as the Comprehensive Plan suggests. If we really mean that, we ought to reserve it for the General Commercial district, or else we could continue to argue each one of these on a case-by-case basis. And then another possibility would be that we would take some of these other, more intensive uses, like drive-in restaurants and say that maybe they should be treated on a case-by-case basis also, so that we won't have someone getting up and telling us how much more intensive a drive-in restaurant or liquor store is, next to a residential neighborhood than a used car lot.

You know what the Comprehensive Plan says, you know what our Ordinance says right now; what would you recommend to the Planning Commission as a general policy separate from this case?"

YEAROUT "Well, it is hard to separate yourself from the case at hand, obviously, but it does cause a dilemma, and when I worked with communities in drafting ordinances and Comprehensive Plans and we would get to the level of talking about these kinds of issues. It is always tempered by the fact of 'what is it that you are really trying to achieve'? How much of an involvement do you want to put the Planning Commission and governing body in every one of these cases that comes through? I am a believer, as much as possible, when drafting ordinances or code regulations, whatever, that you try to make it so that it is one, clear, and two, can be handled as much administratively as possible. To me, some of these things might be better to do, take your second alternative of say, they are allowed, but identify some higher standards that are designed to mitigate the impact of this stuff.

To me, if I remember right, this is not so much the idea that it is vehicle sales, it is the fact that it is outdoor storage. If I recall, there are outdoor storage uses allowed by right in 'LC' within limits, but if you want to go more than that, then you go through a much more onerous process and it kind of goes to the same thing. There are some pretty intensive general retail sales activities that are allowed in 'LC' on pretty large tracts and probably should remain so, but it is the ancillary activities that go with that. Outdoor storage or outdoor display of merchandise for sale is an issue that gets real hard to put your arms around and you know that, as well as anybody does. Whether it needs to be tweaked as part of an amendment policy issue, to me that makes more sense than perhaps subjecting everybody to go through the process that we are going through.

I really believe that you are right on the comment you made earlier that was noted by Commissioner Frye that you will see more of these as time goes by, in all likelihood. There are more vehicles out there. The price of vehicles is such that more used car lots, and we are talking late model ones, and Mr. Farha has an existing sales lot in Goddard. I have been out there and I am not sure there is anything that right now I can afford with all of the fleet of vehicles that I have to carry, to afford to buy a car that he has on his lot. About \$8,000 or \$9,000 is the cheapest one he has on his lot. We are talking more money for a used car than what I remember buying one new several years ago. Everyone here is in that same boat. There are going to be more of them. We have that every year. More vehicles come on the road and there are more drivers on the road. It is a larger policy issue in that regard. Where you go, I don't have a clean answer to, but personally, I would lean more towards higher standards, but making them a use by right with some performances attached."

CONSOLVER "I appreciate all of your comments, but I don't think this is the place where we should be debating the present ordinances. We have case before us and I would like to have it proceed on with it and make a decision."

GAROFALO "I have a couple of questions. One is that you mentioned the hours of operation that you would like to see put in the conditions, and I am assuming that this is your document here that we have?"

YEAROUT "Yes."

GAROFALO "But you don't have winter hours listed. Winter hours will be less, but what does that mean?"

YEAROUT "Their desire is not to necessarily function beyond dark. The lighting that is there is there basically to just provide some level of minimal security lighting. It is not because they will be actively pursuing these vehicles."

GAROFALO "But would you be willing to set specific hours?"

YEAROUT "I think we could work with staff on defining what those winter hours would be and when they would go into effect, generally. We could probably work on daylight savings time."

KROUT "Well, if this is a Conditional Use and it is not going to be protested and stops here, we should probably try to establish those hours today. But I think that we would suggest to you that summer hours would probably be adequate as hours of operation. You don't have to specify anything less than that. I don't think it is necessary."

GAROFALO "If this case was deferred, would that be a big problem for you?"

YEAROUT "Well I know there is a closing pending. Mr. Farha was scheduled to be here and unfortunately could not make it, but he would prefer that it go on, if at all possible. If there is a real overriding issue, perhaps a two week delay."

GAROFALO "Are there any other questions? Thanks, David. Is there anyone else here who wishes to speak in favor of this application?"

GENE RAZOOK "I am the real estate broker on this sale. I am sorry I am late. I am with Andale and Company Realtors. I don't know what Dave has said, but I will add, and it might be repeating, that I attended a CPO meeting last week on this case. It seemed like everything was going pretty good and then I had some member that lived about 3 or 3-1/2 miles away from this site and I couldn't understand the reason why the gentleman came to protest this. I still don't know why. I know that they don't like used car lots, but this is going to be a classy little car lot. Thank you."

GAROFALO "The applicant will have 2 minutes rebuttal time if you wish it later on. Is there anyone else to speak in favor of this item? Is there anyone here to speak in opposition. Go to the podium, state your name and address, please."

NILE DILLMOORE "I live at 1102 Jefferson in Wichita. I am here today representing the Historic Midtown Citizens' Association, as its president to speak in opposition to this Conditional Use permit. Historic Midtown has a keen interest in the Land Use Guide as part of the Comprehensive Plan, and we feel that approval of this Conditional Use permit is going to set a dangerous precedent for further expansion of outdoor car sales in areas that are explicitly defined as inappropriate for that use. I am here today to vote for asking you to deny that permit for that specific reason."

OSBORNE-HOWES "Are you representing the Mid-Town Association more than as its president? I mean, have you all taken a vote on it?"

DILLMORE "Right. We have taken a vote. I hope I made that clear. I am here as the President of the Association who is not in favor of these Conditional Use permits."

FULP "When your group took you vote, was it unanimous or was it split, or what?"

DILLMORE "There was no one there that spoke against it. I don't recall any negative votes on it."

WARREN "You mean no negative votes on your position?"

DILLMORE "Right. Within the Mid-Town Association."

WARREN "When was that meeting?"

DILLMORE "Well, we have met on this issue on a number of occasions. We have had a policy specifically supporting the land use proposal and the guidelines, and on this specific issue we discussed this issue of West Street Conditional Uses for car lots and I believe that it would have been in April, and then when this particular issue came before the CPO organization last week, it was addressed by the board immediately prior to that."

GAROFALO "Did your group also consider the other case that was just ahead?"

DILLMORE "The case that was approved and had been back here? No, we had not. We did not take a position on that one at the time, and I think primarily I think that was just a case of us having been asleep at the wheel. We did not go to that CPO meeting. We should have been there speaking for that one. We didn't really, at the time, I don't think we really appreciated what was happening until after that particular issue had gotten through that CPO. After that time, our opportunity to make that appeal at CPO was gone. We took a harder look at what was going on, went back and asked ourselves if this was really what we wanted to see happen. Is this the kind of precedent that we wanted to see set on West Street in anticipation of having that issue to deal with right here in Mid-Town."

GAROFALO "Okay, thank you. Are there any other questions?"

HENTZEN "Did your organization take the position in opposition to all Conditional Use permits, or only ones that apply to auto sales?"

DILLMORE "The ones that apply to auto sales. In this particular case, we agreed with the staff recommendation and the way we interpreted the Land Use Guide for outdoor vehicle sales that this particular location on West Street was inappropriate for that, and if approved, would set a precedent for further Conditional Use permits either up and down West Street or soon right up and down Broadway, on 13th Street, Murdock, any of those locations. We feel like this is just opening the door. If you look at what happened

on South Broadway, it is the very same thing. One Conditional Use at a time and then pretty soon you have a whole two mile stretch of car lots, and nothing but."

KROUT "I just want to confirm that I think Old Town has some valid reason to be here, I think Mr. Razook inquired, as year or so ago, maybe less than that, about Broadway and Murdock, which is a closed convenience store, inquired about that being, in the heart of the Mid-Town neighborhood, 'LC' zoned, he requested a Conditional Use permit and we told him that the Comprehensive Plan policy said that it wouldn't be an appropriate location. We said we would support that."

GAROFALO "For a car lot?"

KROUT "For a car lot."

DILLMORE "And using that same premise, using that same rationale as it applies to this Conditional Use on West Street, this is just chinking away at those policies that have been set down before, those Land Use guidelines that we think need to be adhered to."

GAROFALO "Thank you. Is there anyone else to speak in opposition?"

ELIZABETH BISHOP "I live at 8518 Longlake, and as you know, I have been before you before, speaking to you about a Conditional Use permit having to do with used car sales. That one that I was here on previously happened to be in my neighborhood, this one is not; however at that time I talked to you about the pattern of developing closed Quik Trips and gas stations into used car lots. I see that as a very dangerous development in the older parts of the City; the developed parts of the City.

I believe that that kind of pattern is definitely detrimental to neighborhoods. It has an impact on nearby retail, and I would just like to remind you once again, that it runs counter to your established policy, written policy and the Comp Plan of not allowing this type of Conditional Use permits in areas where there is nearby retail. I do think it causes neighborhoods to go downhill, and it tends to become a trend. I would be happy to answer any questions you might have. I am a member of an organization called Partners and Development Research. We have not taken a stand on this particular case, we have, so far at least, tended not to stand on a case-by-case basis, but rather our goal is to increase the quality of land use decision making and processes in general. That is the reason I am talking to you about this case as an indication of a trend that I think you need to consider extremely carefully. I would urge you to deny this case. Do you have any questions?"

GAROFALO "Are there questions? Thank you. Is there anyone else here to speak in opposition? Okay. The applicant has two minutes of rebuttal."

YEAROUT "Really, there is little that I think I need to add to anything that has been said. We have reiterated and I know that I didn't really say anything different than I said the other night, Gene, so I don't think there is anything more rather than just to reiterate. We feel that this is less harmful and less intrusive into the neighborhood than many other uses that could occur. We would request your support, with the Conditions that we have offered as well as the ones the staff has articulated within the staff report. I would be happy to answer any other questions you may have."

GAROFALO "Are there any questions of Mr. Yearout? None? Then I will bring it back to the Commission for discussion."

FRYE "Used car lots have become very popular lately, as was indicated by Marvin when he said if we opened the gates, this would happen. I don't know, it just seems to me that there is just something that is not smelling right about this whole thing. I can't put my finger on it, and I don't know what is, but just seems to me that all of a sudden we have all of this controversy about used car lots and it is almost like there is something going on behind the scenes and I can't put my finger on it.

My question of staff is when we deal with this one today, either supporting or rejecting it, and it goes to the City Council, what is the likelihood of the City Council throwing it back to us, just like the other one that is coming back anyway. Let's just be real here. This whole thing is beginning to be a comedy that I am not sure I want to be a part of, this whole picture in that if we do need to study the whole policy about car lots, and if they need to be discriminated against, and if that is what the Council wants to do or what this Commission wants to do, and say they only can be in one part of town or whatever, then let's do that. Something is going on out here that I can't put my finger on, and until that happens, let's just hold everything up and take a look at it. Now, can you answer my question of the likelihood of this coming back to us?"

KROUT "I was trying to remember what the question was. I think the City Council is not likely to send this case back. I think the other case had the unique situation of protests that were filed and then some of those protests being rescinded and the question mark about were the citizens really opposed to this or not? Then we re-notified for the case coming up in two weeks. We re-notified those neighbors so that they will have an opportunity, if they want to, to come to the Planning Commission and tell you what they really think. Because when someone comes along with a petition, whether it is a yes petition or a no petition, it is kind of hard sometimes not to sign it. I think it was that uncertainty, more than anything else, that led the City Council to not be sure where the neighborhood was on it, and they sent it back to percolate a little bit more.

I don't think that is going to happen on this case where you are going to have people signing both yes and no petition. I think we are struggling with this larger policy issue, but sometimes you struggle with it by dealing with these cases and their cluster. I think there is something that is going on in the auto industry that is leading to more used car lots."

WARREN "I haven't been on the Commission all that long, but I am not at all surprised at staff's position on this because they have pretty much painted with a broad black brush that automobile sales and marketing particularly as it would relate to outside display in every case that we have looked at here recently, at least. But I think that sales and marketing of automobiles and outside displays

have been tempered a lot by the conditions we are putting on it. Those things that were objectionable, such as repair work, flashing lights, streamers, banners, pennants, pinwheels, commercial flags, loudspeakers, and platforms have been eliminated, and those are the things by and large, that made automobile sales, merchandising, and particularly outside display maybe less tasteful. I think by virtue of eliminating those things, I don't see anything wrong with the sales and marketing of clean automobiles. So I am going to go with the applicant on this, on the basis that on a comparison with what we had before, you had cars on those same lots, you had later hours, you had boom boxes, speakers, kids throwing trash out. I think this is a beautiful use compared to what it could be used for tomorrow if they wanted to keep it as a Sonic."

CONSOLVER "I commend both Commissioners, I think they are right at what is here. What bothers me is that we had the previous one, which we went through quite a bit of debate on, and we approved it, and now it is coming back to us on a protest that was filed afterwards and we have heard protests against this one, but the thing I am not hearing is from the people who are in the neighborhood, the people who are right there. I think they are probably the best judges of whether or not this is going to be better than either an empty Sonic or another Sonic. I have nothing against the Sonics, but we all know how they operate. It is a place where cars drive through and park and there are bright lights on all hours of the night and everything else, so I am not sure that this is a change in that.

I have been impressed with that, while there is a lot of complaints against car lots, I have been impressed with the changes in the small car lots. I think a good example is over here at Broadway and Central. That has been essentially a struggling location for a long time with a lot of things that have been unattractive and now it is not an unattractive business. I don't think it is hurting anything. It is better than a parking lot. So I have to go along with it. I think that this is a better use of this, and I think it is going to improve along there with the landscaping, the fences and the types of operation it is going to be. So I am going to support it."

OSBORNE-HOWES "I am going to assume that Harley and I are going to agree on this."

MILES "We probably won't. I'll give you odds on that."

OSBORNE-HOWES "I guess my comment would be that I am not supportive of this case. First of all, I am like Mr. Frye. I think we are hearing lots of controversy about these car lots, and I guess I am just wondering if maybe the reason is that we have been tending to, as a group, to approve these things and maybe they are just not setting well with the community or with the neighborhood and we are beginning to be concerned about it. I am guessing, especially if we are talking about neighborhood associations in the core area, they are the ones who are the watchdogs of our area, and they are saying that we are seeing a precedent being set. So I am getting more concerned about them than I used to be. I think people have a right to come up here and talk about that, particularly if they are in neighborhoods that have seen uses change.

Secondly, I guess what I am really seeing is if we can take away the picture out of the classic car lot that is going to use this theme. What I really see is someone coming in and turning this into a use, a very inexpensive, low-cost, I am not going to change anything attitude, I am just going to stick some cars in these stalls. That is somehow supposed to make it better than it is now. I don't agree with that.

Finally, they are talking about not changing the lighting. I, having gone to this particular Sonic quite often when it was still around, it has a lot of lighting, so I would think that they could have much more lighting than we normally get with a used car lot. Those are just some of the reasons that I won't be supportive of this. I think that we ought to take a long, hard look at casually okaying these intensive uses adjacent to single-family zoning."

MILES "I was going to be against it, but being she is against it, I am going to be for it. Basically, there is a reason why I am going to support this. The reason I worked so hard to be on the Metropolitan Area Planning Commission many years ago was because I had some opposition from some people at Boeing when I was building a sandpit in the northwest part of Wichita. So when downtown people come down to tell me what to do on West Street, I am immediately against it. Being this will be my last meeting, and Marvin will be very happy and have a drink tonight..."

KROUT "I will even have one with you, Harley."

MILES "I will have one with you, Marvin.... and we will keep discussing this. But I am going to make a motion on this."

MOTION: Having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The site has commercial developments located to the north, the south and the east, which are zoned "LC" but are not permitted outside storage. An apartment complex is located across West Street to the northeast from the application area on "LC" zoning. The property west of the site is single family residential. The property to the southwest is an apartment on property zoned "MF-29" and a church. The nearest outside auto display lots are 0.6 mile away. Extent to which removal of the restrictions will detrimentally affect nearby property: This general area is characterized by mostly small neighborhood retail uses and residential nearby. The outdoor storage involved with the vehicle and equipment rental business is not compatible with the uses found in this general location. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Comprehensive Plan recommends auto related uses be located along CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses and utilities can support the uses. The application area is not along the CBD fringe, Kellogg, nor are any other similar uses found in the general vicinity.

Therefore, this request does not correspond to the Comprehensive Plan. The approval of this request could possibly allow for additional vehicle sales operations to be located along West Street to the north or south of this site. The suitability of the subject property for the uses to which it has been restricted: "LC" retail uses not involving outdoor storage of vehicles would be appropriate at this location. Impact of the proposed development on community facilities: The use of this property should have limited impact on the community facilities.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. No more than 30 vehicles can be for sale on the sales lot at any one time.
2. This property shall be developed in accordance with a revised site plan that shows the required 6 parking spaces for employees and customers. The site plan shall also designate which spaces shall be used for customer and employee parking and which spaces will be for the display of vehicles. The required customer and employee parking shall not be used for any display of vehicles. The easternmost drive onto Murdock shall be removed.
3. All parking, storage, and display areas shall be paved with concrete, asphalt, or asphaltic concrete. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
4. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. No automotive service, repair work or body or fender work shall be done on the premises.
5. Only those signs permitted in the "LC" zoning district shall be permitted on this site, except that no portable, flashing, moving or off-site signs shall be permitted and no streamers, banners, pennants, pinwheels, commercial flags, bunting or similar devices shall be used.
6. No sound projecting devices or loudspeakers shall be used on-site.
7. There shall be no use of elevated platforms for the display of vehicles.
8. The applicant shall comply with landscape street yard requirements and parking lot screening of any required parking spaces along West Street and Murdock, and with buffering along the rear property line adjacent to residential use.
9. No additional lighting shall be permitted beyond the lighting shown on the revised site plan on the building and/or the canopy. No additional string lights, flashing lights, or searchlights shall be permitted.
10. Hours of operation shall be limited to 10:00 a.m. to 9:00 p.m. Monday through Saturday, and 12:00 p.m. to 7:00 on Sundays.
11. Any violation of the conditions of approval shall render the Conditional Use permit null and void.

MILES moved **WARREN** seconded the motion.

KROUT "Do you want to cite the reasons for approval the reasons that Commissioner Warren referred to in terms of the intensity of the use?"

MILES "Yes."

WARREN "I wonder if I could get the maker of the motion to approve it with East Murdock being closed. That is one of staff's conditions, and so it would be subject to staff comments anyway."

MILES "Yes. And the other conditions that the applicant has offered. They are all in the minutes, I presume. We have a good minute taker."

PLATT "I am going to vote against this for the reasons that have been given. I think we are going to have a lot of problems with used car lots coming up. I think we need to take a harder look at them. I think that West Street is the kind of street that is everybody's neighborhood in Wichita and it deserves the Commission's protection of it.

I also can't resist point out that a few weeks ago we heard an argument for a used car lot on the east side of town, and we were told that the reason we should approve it is that it would have only late model cars. The implication being that those older ones are bad. Now today we are getting one and saying 'oh, we are only going to have old cars'. So, I guess that is an indication of the problems we have."

HENTZEN "First of all, I am going to vote in favor of this. I think it is a good use for that corner. The other thought I am having here is we have heard quite a bit of discussion lately about concentrating businesses downtown....save the downtown. Well, if Mid-town representatives want some businesses downtown, maybe we ought to make just one big car lot out of it. I am just saying that you can't talk out of both sides of your mouth. If you want businesses downtown, auto sales is a pretty big business in Wichita. I just can't be impressed by all of the people running around and appearing before these CPOs and commissions like this, most of the

time giving their personal opinion about a given type of business. So all I am saying is that I think this is a good use for that corner at this time."

FRYE "I am going to support the motion, basically as Commissioner said, at this location at this time, I think it is appropriate. I think it is much less obtrusive than many other things that might go in there. I don't want it to be in any way inferred that I am willing to put used car lots just anywhere in this City. That is not the case, but what I am willing to do is to look at them on a case-by-case basis. But let's look at that policy in general. Let's look at that in the broad way, and let's bring it on the table, let's debate it. Let's let the neighborhood associations come in and debate it, and then whatever we want to do with that policy or the City Council, then I am willing to abide by it, but until that time comes, I am going to look at it on a case-by-case basis."

FULP "Thank you. As we started our discussions, I wrote down the number 9-3. That was my estimation of how this vote would go. This is obviously going to be approved. I do disagree with Mr. Krout. I do predict that this will, in fact, be back. But I just want to make a couple of comments. This is a better use than what has been there. I agree with my colleagues on that. But I think that as a lot of us are going to be leaving this board over the summer, we try to leave behind something. The quality of life is an issue for the whole community, not just those who live in the immediate area where zoning or a land use application comes before this committee.

I respect the Mid-Town Historic Society, and although they may not have said so clearly as I understand it, their organization does care about this whole community, not just Mid-Town. They are concerned about the quality of life for all of our community. They just concentrate on Mid-Town. But I care about what goes on over on the Cowskin. I don't live there, but I am concerned about the flooding problem and that over the years we have allowed development in areas that are now being identified as flood zones and are now being reviewed. Although I don't live there and the Cowskin will never flood my property.

It is like taxation. There are two forms of taxation in actuality that the government has imposed upon us as citizens. One, the type of taxation that provides the community services that all citizens expect to have and that are there for the benefit of all citizens, such as public safety. There is a second type of taxation that is imposed upon us by our election of our elected officials, and that is taxation that is collected from all but that is only used to serve a few. And we condone that, and that is part of the quality of life that a community decides to have for itself. Yes, this, I think, is a better use than what the land is being used for now...it is vacant. It has been sitting there for quite a while and that is one of the justifications that we have in our book for going against the recommendation of staff. Staff's recommendation was to deny this application for the reasons they gave.

So this is going to pass, and I think it is going to be a better use, and I agree with Commissioner Frye. We need to look at these on a one-to-one basis until such time as the governing bodies, which we serve, set an over-all policy. I think it is part of the job of this body to help set this policy through the positions and the dialog that we have. We may not always agree, but at least our comments go forward to help the governing bodies make better policy decision."

HAGGAR "Marvin, I think sometimes we tend to misuse the word 'policies'. I don't think we have any policies in zoning and planning. Everything is up for grabs every time somebody brings it up. We debate, we talk, and then we vote. So to me, whether you make a policy or not, the special conditions are set for any special condition that comes up, you debate it, you look at the merit and you vote on it. I think that is the way it is going to be and that is the way it is. I don't understand why we are really trying to look at doing something in the future that is going to really change this. I can't see it. Special conditions are special conditions."

WHEELER "I will try to be brief and probably less eloquent than some of my fellow commissioners. I have supported some zoning of car lots, and voted against some. Usually I am fairly pro-business, but I am looking at this on a case-by-case basis. I do feel that the complexion of West Street is different, maybe only slightly in some eyes, north of Central than south of Central. Although this property is vacant, I am not sure that car lots are the best use of those properties. So I will probably be opposing the motion."

GAROFALO "I think I will have the last word, briefly. I believe I voted against the previous case, which is up the street from there. I am going to vote against this motion for much the same reasons that Commission Wheeler just spoke of. I think that it is starting to be an intrusion north of Central there on West Street and maybe we could have some better uses. We may end up with a whole bunch of car lots up there now, running from Central on north on West Street, and I think it is just not a good use in relation to the other commercial uses along there. So I will not support the motion. We will have a roll call vote."

VOTE ON THE MOTION: The motion carried with 7 votes in favor (Hentzen, Frye, Consolver, Hagggar, Miles, Warren and McKay), and 5 in opposition (Wheeler, Platt, Osborne-Howes, Garofalo and Fulp). Johnson and Lopez were not present.

KROUT "Maybe this will come back to the Planning Commission, but this will be final unless it is appealed by a neighbor or a protest petition, or unless the City Council decides to pull it out."

3. Case No. CU-527 - Cheney Baptist Church (Owner); SRB c/o Mark Savoy (agent) request a Conditional Use to allow a church in "RR" Rural Residential zoning, described as:

A tract of land located in the Northeast Quarter of Section 5, Township 28 South, Range 4 West of the 6th P.M., Sedgwick County, Kansas, more particularly described as follows: Beginning at the Southwest corner of the Northeast Quarter; thence N 00 degrees 00'00" E (assumed) along the West line of said Northeast Quarter for 400 feet; thence S 89 degrees 56'10" E parallel to the South line of said Northeast Quarter for 762.30 feet; thence South 00 degrees 00'00"W for 400

feet to the South line of the Northeast Quarter; thence N 89 degrees 56'10"W for 762.30 feet to the point of beginning.
Generally located approximately ½ mile south of 23rd Street South and east of 383rd Street West.

DONNA GOLTRY, Planning Staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is requesting a Conditional Use to construct a church on a 6.5-acre tract located just north of Cheney. The property is located on the east side of 383rd Street West approximately ½ mile south of 23rd Street South.

The property is zoned "RR" Rural Residential. All the property immediately adjacent to the site is zoned "RR". There are five large lot residential residences and spread along the stretch of 383rd located between the application area and 23rd Street South, and a residential subdivision with seven lots, Northridge Estates. The subdivision has two lots currently occupied. The mix of land uses changes to the south. A single-family residence and some farm ground is located immediately south of the site. The next property is Lubbers Chevrolet Ford Mercury, and is located at the corporate limits for the City of Cheney. The next property to the south is the Cheney Coop. A golf course is located across the street from the Coop and Lubbers, and extends almost as far north as the application area on the west side of 383rd.

The applicant has stated that the church is planning to construct a 310-seat sanctuary. Based on the Unified Zoning Code requirement of one parking space per four seats in the room with the maximum seating capacity, the applicant would be required to provide 78 parking spaces. The site plan shows 110 parking spaces. The location of the parking spaces is in conformance with zoning ordinance requirement that parking not be located within the front yard setback.

CASE HISTORY: The property is unplatted. A plat was approved by Subdivision Committee on June 3, 1999.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR" Rural Residential;	Agricultural, single family residences
SOUTH:	"RR" Rural Residential;	Agricultural, single family residence, car sales
EAST:	"RR" Rural Residential;	Agricultural
WEST:	"RR" Rural Residential;	Agricultural, golf course

PUBLIC SERVICES: This site has access to 383rd Street West, a two-lane County highway with 1996 traffic volumes of 1,157 (ADTs). As part of the platting process, County Fire has requested a second point of access. The subdivision plat will show access control except for two openings. Municipal water will be available from Cheney to serve the site. However, municipal sewer service will not be available. The site plan shows the location of the proposed lagoon in the southeast quadrant of the property. It is to be placed directly north and outside of the area designated on the subdivision plat as being within the scaled limits of Zone "A" of the floodplain.

CONFORMANCE TO PLANS/POLICIES: The Sedgwick County Land Use Development Guide identifies this area as within Cheney's growth area for Cheney. This category is designated for the small cities' future growth and is generally located adjacent to their existing municipal boundaries, and indicates the direction and magnitude of growth these communities can expect to occur over the next 20 years.

RECOMMENDATION: This request is located along a County Highway and is located within the growth area of the City of Cheney. Therefore, staff believes this is an appropriate request at this location. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting the within 1-year and the following conditions:

1. The property shall be screened by provision of a 15-foot wide landscaped yard adjacent to residential zoning districts, or by provision of a screening fence 6 feet to 8 feet in height.
2. The property shall be developed in substantial conformance with the site plan. Any substantial deviation from development as shown on the site plan shall deem the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All the land surround the site is zoned "RR" Rural Residential. The property to the north, east, and west is primarily agricultural and large lot residential. The property immediately to the south of the site is residential/agricultural, but further south it is commercial and recreational.
2. The suitability of the subject property for the uses to which it has been restricted: This property is currently zoned "RR" Rural Residential, which permits churches to be located in this district as a Conditional Use. Property with frontage on the main entrance to the City of Cheney would be expected to be developed with more intensive uses than a church.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Since churches are permitted as a Conditional Use in "RR" Rural Residential areas, approval of this Conditional Use would not seem to provide substantial detrimental effects to the surrounding land uses. The main impact would be intensification of use of the property and traffic generated during services and activities.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan identifies this area as growth area for Cheney. This request does conform to the Comprehensive Plan. However, the church would generate less impact than might be generated by other non-residential uses which could be expected to be located along this corridor.
5. Impact of the proposed development on community facilities: The development will generate additional traffic on 383rd Street West. However, through the required traffic improvements, this impact should be minimized. The applicant will be required to extend water service from Cheney and develop an approved on-site sewage disposal system per County requirements.

GOLTRY "We would request that you would add as a condition that a second point of access be provided, in conformance with Subdivision regulations. County Fire has requested that there be a second point of access for the property, in order to serve it. That is why we are recommending it.

The Cheney Planning Commission heard this application on Monday night and voted unanimously for approval. Their comments and questions centered around the need for approval of a drainage plan and the need to keep the sewage lagoon system outside of the floodplain areas, both of which are concerns that are being addressed as part of the Subdivision platting process. Findings are contained within the staff report. Are there any questions?"

WARREN "On that extra drive, is this going to be a roll-over curb?"

GOLTRY "There has been some discussion on whether it needs to be a full point of access or an emergency access."

OSBORNE-HOWES "Did Cheney's Planning Commission approve this did you say?"

GOLTRY "Yes, a unanimous approval."

HAGGAR "My perception is that we can never say no to a religious activity. Is that true?"

GOLTRY "No. There are site design characteristics that everyone has to meet in terms of site design characteristics."

HAGGAR "So that is why we are going through this special condition?"

GOLTRY "Yes. Because this is a Conditional Use, and in "RR", it would be use of right in other locations."

GARFALO "I have a question. Is this provision for a screening fence, it seems like this is out in the middle of nowhere."

GOLTRY "It does, and originally they had the site plan drawn so that they were a little bit closer to the property within that 15-foot set-back area that they needed to provide, so they rearranged the site plan so that they are in conformance with it without any need for fencing."

GAROFALO "So, should that be struck from the conditions?"

GOLTRY "Actually, the statement just reiterates what is existing in terms of the Zoning Code."

KROUT "It can be left as it is because they are providing fifteen foot."

GAROFALO "Okay. If there are no other questions, we will hear from the applicant or agent."

MARK SAVOY "I am with Savoy, Ruggles and Bohm, representing the applicant. There are six of us in the audience who want to thank you for the opportunity to hear the car lot discussions. We really appreciate that. (Laughter).

We are in agreement with staff comments. The meeting in Cheney was a good meeting. There was quite a bit of discussion on it. As Donna stated, there were basically two concerns. There was no problem with the church itself. The two concerns were the drainage. The gentleman who has the subdivision to the north of this is here. I don't know whether he is going to speak or not, but he was concerned to make sure that a drainage plan was going to be taken care of that would not increase any additional drainage to the north. I gave him Jim Webber's phone number so that he can get in contact with him to make sure he pursues that.

Then there was the sewage lagoon. They were concerned that that would be a lagoon of a size that would cause pollution. Of course, as you know, County Health will not handle lagoons that produce over 1,000 gallons per day activity. We checked the church's water records and they have 188 members. It is primarily a Sunday service operation. Their current water usage is 3,000 gallons a month, so it is pretty light usage. I realize that that may not address what could happen if that church would expand in the future, or if they would, for instance try to open a church school. I don't know if that is another Conditional Use or what, but for their present usage that they have planned, it is a very light usage. But once again, they have to deal with the County Health Department on that. I just wanted to state that on behalf of the conversation we had in Cheney. We had kind of gone through those same things. I am not representing the plat, it is another company that is doing that, but I know that they are still going to have to comply with those requirements. Are there any questions?"

GAROFALO "Are there any questions of Mark? Okay. Is there anyone else here to speak in favor of this application? Is there anyone here to speak in opposition to this application? If not, we will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: All the land surround the site is zoned "RR" Rural Residential. The property to the north, east, and west is primarily agricultural and large lot residential. The property immediately to the south of the site is residential/agricultural, but further south it is commercial and recreational. The suitability of the subject property for the uses to which it has been restricted: This property is currently zoned "RR" Rural Residential, which permits churches to be located in this district as a Conditional Use. Property with frontage on the main entrance to the City of Cheney would be expected to be developed with more intensive uses than a church. Extent to which removal of the restrictions will detrimentally affect nearby property: Since churches are permitted as a Conditional Use in "RR" Rural Residential areas, approval of this Conditional Use would not seem to provide substantial detrimental effects to the surrounding land uses. The main impact would be intensification of use of the property and traffic generated during services and activities. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan identifies this area as growth area for Cheney. This request does conform to the Comprehensive Plan. However, the church would generate less impact than might be generated by other non-residential uses which could be expected to located along this corridor. Impact of the proposed development on community facilities: The development will generate additional traffic on 383rd Street West. However, through the required traffic improvements, this impact should be minimized. The applicant will be required to extend water service from Cheney and develop an approved on-site sewage disposal system per County requirements.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. The property shall be screened by provision of a 15-foot wide landscaped yard adjacent to residential zoning districts, or by provision of a screening fence 6 feet to 8 feet in height.
2. A second point of access shall be provided in conformance with requirements for access by County Fire during subdivision platting.
3. The property shall be developed in substantial conformance with the site plan. Any substantial deviation from development as shown on the site plan shall deem the Conditional Use null and void.

FULP moved, **FRYE** seconded the motion, and it carried unanimously (12-0).

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4. **Case No. PUD # 9** – Sedgwick County Rezoning Case requesting a Zone Change from the "RR" Rural Residential District and the "SF-20" Single-Family District to the "PUD" Planned Unit Development District, on property described as:

Lot 1, Calvary Baptist Church Addition to Sedgwick County, Kansas, and

The East Half of the West Half of the Southeast Quarter of the Southeast Quarter of Section 30, Township 28 South, Range 2 east of the 6th P.M., Sedgwick County, Kansas. Generally located north of 63rd Street South and west of Rock Road.

MCKAY "Clarification, please. When I came in, I found out that my nephew is representing this case as the architect. Is that a conflict of interest?"

KROUT "It is not officially a conflict, but it would probably be inappropriate."

MCKAY "I will step down."

KEITH GOOCH, Planning Staff pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is requesting to rezone a 20 acre tract of land from "RR" Rural Residential and "SF-20" Single-family Residential (west 10 acres) to PUD-9 located north of 63rd Street South and west of Rock Road.

The applicant is requesting that the Planned Unit Development be permitted the following uses: church, school (elementary, middle, and high schools), day care and dwelling units. The maximum building coverage for church, school, and day care would be 100,000 square feet and 14,000 square feet for dwelling units. The maximum gross floor area for church, school, and day care uses would be 150,000 square feet and 20,000 square feet for dwelling units. All school and day care activities would be contained within the church building.

The maximum number of dwelling units would be 11 with a mixture of single family units or two to four units per building. These dwelling units would not be sold off and would be used for missionaries who return from their missions until such time as they travel abroad again and also for evangelists, or pastors.

The applicant has stated that the church is planning to construct a 750 seat sanctuary in the first phase and in the future a new sanctuary could be built which would seat a total of 1700 persons. Therefore, based on the Unified Zoning Code requirement of one parking space per four seats in the room with the maximum seating capacity, the applicant would be required to provide 425 parking spaces. The site plan shows almost 600 parking spaces and therefore the applicant would meet the required number of parking spaces.

The applicant is proposing that the church building would be setback 50 feet from all property lines, and the dwelling units would be setback 35 feet from 63rd Street South and 20 feet from the north, east and west property lines. Landscaping would be as per City of Wichita Landscape Ordinance. The parking lot as shown on the drawing would have to be moved 15 feet from the east and west property lines in order to meet the required landscape buffer.

Agricultural land abuts the application area to the north and east on property zoned "RR" Rural Residential. West of the proposed PUD is single-family homes on property zoned "RR" Rural Residential. South of the property is undeveloped land but was at one time proposed for a golf course through the City of Derby.

CASE HISTORY: The west 10 acres was platted as the Calvary Baptist Church Addition.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Agricultural land
SOUTH: "RR" Agricultural land
EAST: "RR" Agricultural land
WEST: "RR" Single-family homes

PUBLIC SERVICES: This site has access to 63rd Street South, a two-lane County highway with current traffic volumes of 8,981. Preliminary estimates from the 2030 Transportation Plan show the traffic volumes increasing to 16,500. The Sedgwick County CIP identifies 63rd Street South from Buckner to Rock Road will be improved to four lanes in 2003.

Municipal sewer and water are not available to serve this site currently. However, the Derby Planning Director has stated that the property to the south once platted will be required to extend municipal services. Services would then be available to serve this site. At the time of platting, Planning Staff is recommending that the applicant guarantee the future construction water and municipal sewer (this property is in Derby's subdivision jurisdiction). Currently, the PUD shows a temporary sewage lagoon on the north half of the property and will have temporary access to Rural Water District #3. KDHE will have to approve this lagoon because of the capacity it will be required to serve.

CONFORMANCE TO PLANS/POLICIES: The Sedgwick County Land Use Development Guide identifies this area as small city growth area. This category is designated for the small cities' future growth and is generally located adjacent to their existing municipal boundaries, and indicates the direction and magnitude of growth these communities can expect to occur over the next 20 years. Derby City Limits is currently located south of 63rd Street South.

RECOMMENDATION: This request is located along an arterial and municipal services will be available shortly once the property to the south is developed. Therefore, staff believes this is an appropriate request at this location. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting the entire ownership into one lot within 1-year and the following conditions:

1. The proposed use description for dwelling units shall be revised to state, "... All dwelling units shall remain under church ownership."
2. All dwelling units shall be limited to a maximum height of 35 feet.
3. All signage shall be monument type signs and limited in size as defined and permitted by the Derby sign code.
4. The applicant shall guarantee a deceleration lanes and left turn lanes to the two entrances.
5. General provision 6 shall be revised to state, "parking lot screening, street yard landscaping, parking lot trees and buffer landscaping shall be as per the Wichita City Landscape Ordinance..."
6. In order to provide screening and landscaping between the planned parking lot and the residentially zoned property to the west, the site development plan shall be amended to depict at least 20 feet of separation between the western edge of the parking lot and the west line of the PUD. The minimum 20 foot wide area shall provide screening and landscaping by using a combination of masonry walls, earthen berms, wrought iron panels, evergreens, hardy shrubs, and possibly limited use of wooden panels supported by masonry pillars. Such screening and landscaping shall avoid a monotonous or blank appearance and shall be installed in conjunction with construction of the subject parking lot. Prior to the issuance of a permit for parking lot construction, a landscape plan shall be submitted to the Wichita-Sedgwick County Metropolitan Area Planning Department for review and approval showing the required screening and landscaping. If the property to the east of the PUD is developed with residential uses, the east line of the PUD shall be landscaped and screened, adjacent to the parking lot, in the same manner as is required for the west line of the PUD.
7. The applicant shall guarantee the extension of municipal sewer and water.

8. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
9. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
10. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
11. Prior to publishing the ordinance establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as PUD-9) includes special conditions for development on this property.
12. The applicant shall submit 4 revised copies of the P.U.D. to the Metropolitan Area Planning Department within 30 days after approval of this application by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the north, south and east is undeveloped agriculture land zoned "RR" Rural Residential. There are single-family homes located to the west on property zoned "RR" Rural Residential.
3. The suitability of the subject property for the uses to which it has been restricted: This property is currently zoned "RR" Rural Residential, which permits churches, day cares and schools by obtaining a Conditional Use and "SF-20" which also permits churches and schools "by-right" and requires day cares to obtain a Conditional Use. Single-family units are also permitted in both of these zoning classifications. Therefore, the PUD as requested by the applicant is not significantly changing the permitted uses on this property except for permitting the possibility of duplex or multi-family dwelling units.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: As stated previously, the current zoning on this property permits most of the uses requested by the applicant either "by-right" or by Conditional Use. Therefore, it does not seem that this change in zoning application will substantially affect the nearby properties anymore than how the property is zoned.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan identifies this area as growth area for Derby. This request does conform to the Comprehensive Plan.
5. Impact of the proposed development on community facilities: The development will generate additional traffic on 63rd Street South. However, through the required traffic improvements, this impact should be minimized. The applicant will be required to extend municipal services once available, and there is sufficient capacity to serve this site.

GOOCH "Are there any questions of staff?"

GAROFALO "Questions? Apparently not. We will hear from the applicant."

DON FOLGER "I am the architect and applicant for the church. I want to review just a little bit of why we asked for a PUD. I won't spend a lot of time on that. It is because this is in the County and right now, if Derby cannot get a sewer and water, then it has to be a County project. We would like to be in the city so that we can do that, but we can't.

One of the things that came up during the planning of this is that the church wanted to be able to have housing to put missionaries that come back on furlough in for short time periods. In the County and having to do with the lagoons and the sewage and the amount of acres you have to have for all of those things. It got pretty complicated, so we determined to go to a PUD where we could write up what we wanted to do on the piece of land. That is why we are here for a PUD.

The other thing that is a part of this is that it being a PUD, we are asking for everything that might ever happen on that piece of land. In this church right now, there are only about 500 people. The average attendance is between 500 and 550, at two services. The new sanctuary that we have for Phase I in our drawings only holds 750 people. They will go to two services first, and then we have a 1500 seat sanctuary for another phase. The first phase of what is really going to be built out there and will probably be what is there for quite a while is only about 18,000 square feet compared to all of those numbers you just heard of hundreds of thousands of square foot of building. Because it is a PUD, we have asked for all of those things. A school and a daycare are not a part of the ministry of the church right now, but they could be down the road. It is a lot better to do that now as a part of the PUD than to amend it.

We are in total agreement with the staff comments except for item No. 4, which talks about the deceleration lane and the left-turn lane. With that, I have tried to get hold of Jim Weber to clarify that and have not been able to. But at the Derby Planning meeting, we made this same request that we do not have to do the left turn lane as the street sets right now. We will do a temporary decel land because this is a non-curb, just asphalt road and we want to go ahead and do that when construction starts as a part of the permitting of getting that permit for the first phase, and then go ahead and sign guarantees to pay the part that is represented for the

church at the time they do the improvements in 2003 and go ahead and put in the left-turn lanes and the permanent decel/excel lanes. We just don't want to have to re-work the road right now for a left-turn lane. We don't see that as a necessary need with the two lanes as it is, and they are going to improve it in a few years. Those are the only comments that we have. Are there any questions?"

WARREN "Do you agree, then, to go ahead and work with the City at the time that that road is improved to go ahead and provide one later? You just don't want to go into it now?"

FOLGER "Yeah, we just don't want to do it now. As a part of the preliminary plat, what they have required for the final platting is that we sign documents, or the church signs documents that allows for all of that to happen, but right now, when the permit is issued for this building, there will be a decel lane as a part of that permitting."

GAROFALO "Are there any other questions?"

KROUT "I know that Derby did look at the preliminary plat at the same time, are you saying that they felt that the decel lane issue ought to be treated? Were they satisfied with the idea of a petition to be held until the construction of the project?"

FOLGER "Yes. We zoned this piece of property, the original 10 acres three or four years ago for the church use, and they were not able to get the extra 10 acres. When they were able to get it, then we decided to do this, and as a part of that zoning back at that time, we had the same conditions. We had to sign a guarantee to allow for the decel lane. The left-turn lane is something that has came in new. That wasn't asked for back three years ago, and now it has been. I think traffic on 63rd Street has increased and that is part of why that was asked for. But they were in agreement with all of that."

KROUT "And I think that could be a clarification in a motion to approve to clarify the conditions that that would be the form of petition to be held until the construction."

GAROFALO "Are there any other questions? Thank you. Do we have anyone else to speak in favor of this application? Is there anyone here to speak in opposition to this application? If not, we will take it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The property to the north, south and east is undeveloped agriculture land zoned "RR" Rural Residential. There are single-family homes located to the west on property zoned "RR" Rural Residential. The suitability of the subject property for the uses to which it has been restricted: This property is currently zoned "RR" Rural Residential, which permits churches, day cares and schools by obtaining a Conditional Use and "SF-20" which also permits churches and schools "by-right" and requires day cares to obtain a Conditional Use. Single-family units are also permitted in both of these zoning classifications. Therefore, the PUD as requested by the applicant is not significantly changing the permitted uses on this property except for permitting the possibility of duplex or multi-family dwelling units. Extent to which removal of the restrictions will detrimentally affect nearby property: As stated previously, the current zoning on this property permits most of the uses requested by the applicant either "by-right" or by Conditional Use. Therefore, it does not seem that this change in zoning application will substantially affect the nearby properties anymore than how the property is zoned. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan identifies this area as growth area for Derby. This request does conform to the Comprehensive Plan. Impact of the proposed development on community facilities: The development will generate additional traffic on 63rd Street South. However, through the required traffic improvements, this impact should be minimized. The applicant will be required to extend municipal services once available, and there is sufficient capacity to serve this site.) I move that we recommend to the governing body that the request be approved, subject to platting the entire ownership into one lot within 1-year and the following:

1. The proposed use description for dwelling units shall be revised to state, all dwelling units shall remain under church ownership."
2. All dwelling units shall be limited to a maximum height of 35 feet.
3. All signage shall be monument type signs and limited in size as defined and permitted by the Derby sign code.
4. The applicant shall guarantee a deceleration lanes and left turn lanes to the two entrances. The guarantee shall be in the form of a petition to be held until such time as 63rd Street North is improved to four lanes.
5. General provision 6 shall be revised to state, "parking lot screening, street yard landscaping, parking lot trees and buffer landscaping shall be as per the Wichita City Landscape Ordinance..."
6. In order to provide screening and landscaping between the planned parking lot and the residentially zoned property to the west, the site development plan shall be amended to depict at least 20 feet of separation between the western edge of the

parking lot and the west line of the PUD. The minimum 20 foot wide area shall provide screening and landscaping by using a combination of masonry walls, earthen berms, wrought iron panels, evergreens, hardy shrubs, and possibly limited use of wooden panels supported by masonry pillars. Such screening and landscaping shall avoid a monotonous or blank appearance and shall be installed in conjunction with construction of the subject parking lot. Prior to the issuance of a permit for parking lot construction, a landscape plan shall be submitted to the Wichita-Sedgwick County Metropolitan Area Planning Department for review and approval showing the required screening and landscaping. If the property to the east of the PUD is developed with residential uses, the east line of the PUD shall be landscaped and screened, adjacent to the parking lot, in the same manner as is required for the west line of the PUD.

7. The applicant shall guarantee the extension of municipal sewer and water.
8. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
9. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
10. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
11. Prior to publishing the ordinance establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as PUD-9) includes special conditions for development on this property.
12. The applicant shall submit 4 revised copies of the P.U.D. to the Metropolitan Area Planning Department within 30 days after approval of this application by the Governing Body, or the request shall be considered denied and closed.

FULP moved, **WARREN** seconded the motion.

HAGGAR "Marvin, just for clarification. On No. 5, on the impact, are we talking about the City of Derby or the City of Wichita when it comes to sewers and water?"

KROUT "When you are talking about the impact on community facilities, and in this case, we are talking about the impact of Derby's facilities, and county facilities. Sixty-third Street is a County road."

HAGGAR "So when they want sewers and water and they will have to go to the County?"

KROUT "No, but in the future the water and sewer will probably be extended there, but at this point, it is not. It's on Derby."

WARREN "But for lack of agreement, Derby would have been to 63rd Street now. There were some problems."

GAROFALO "We have a motion and a second. Let's vote."

VOTE ON THE MOTION: The motion carried with 12 votes in favor. There was no opposition. Johnson and Lopez were not present.

6. **Case No. A 99-10** – The City of Wichita seeks the annexation of properties east of K-96 Highway, between 21st Street North and 13th Street North.

ROBERT ISAAC, Planning Staff "This is the second phase of an annexation occurring out between 13th Street and 21st Street, east of K-96 Highway. It is 34 acres. The first phase of this annexation was official on January 29, 1999, a 312-acre annexation.

This particular phase is set to be heard by the City Council on August 10. It consists of two residential tracts; four farm related tract, one commercial tract and one exempt tract. All of the areas you see on the map are completely surrounded except for (indicating) this particular area here, which are surrounded by three sides of the City. This particular tract down here, completely surrounded, is part of the cemetery tract. They are all within the new growth area as referred to in the Comprehensive Plan. Are there any questions?"

GAROFALO "If there are no questions..."

MOTION: That the Metropolitan Area Planning Commission find that the unilateral annexation is compatible with adopted Comprehensive Plan.

MCKAY moved, **CONSOLVER** seconded the motion, and it carried unanimously (12-0).

KROUT "Before we go on to the next item, I would like to bring to your attention that this is the last day for three of the Commissioners who are sitting at the table this afternoon. We have had re-appointments on the City Council side for the replacement of Commissioner Hagggar, Commissioner Consolver and Commissioner Miles. I have had more disagreements with some of you than with others...."

MILES "I wonder who, Marvin?"

KROUT "Some of you have taken the Comprehensive Plan a little more seriously than some others, but it has been a pleasure to work with all of you. You have all done a lot of hard work and you have been good contributors. I am sure that you will be missed."

MILES "Mr. Chair, I have never been short of words. I have had many a disagreement with Marvin, but he has always been honest with me. It has been a pleasure to work with him, too, because I don't mind when anybody disagrees with me. In fact, I really enjoy it."

FRYE "Do we know who the new commissioners are, or is that still a secret?"

KROUT "No, they are Ron Marnell from Multi-Media Cablevision was appointed to Commissioner Hagggar's seat, Jerry Michaelis of the Office Warehouse near Willowbend fame was appointed to Larry Consolver's seat, and Chris Carraher, a CPO member was appointed by Bill Gale to replace Commissioner Miles. We still have a couple of open positions. The issue of term limits is still up in the air."

CONSOLVER "I just want to say that I have really enjoyed it. I have said that many times. This is the most exciting time of my month to come up here and listen to everybody's comments. I just want to say that the best part of being on this Commission was that all of the people had an opportunity to speak and everybody had an opportunity to express their opinions. The votes, I think, were taken based on the feelings of this Commission. I think that is a real asset, and I feel real honored to have had the opportunity to serve on this board."

GAROFALO "Are there any other comments?"

KROUT "Mike, are there any words of wisdom you would like to say for the record? This will be your last time for the record."

GAROFALO "Let the record show that he shrugged his shoulders."

MILES "There is one thing I will say. Years ago, when we started this bigger board, I really thought that we were going to have problems with the City versus the County in a lot of situations, or that politics would get into it, but this board has never been politically involved. Basically, just like I said, they vote how they feel. A lot of times you know how some of us are going to vote, pretty steadily, but it has been real interested. When they get in here, they take the politics out of it. I like that and have appreciated doing it."

GAROFALO "As the Chair for the day, that's kind of like Queen for a day, I would like to thank the three Commissioners for their service to the community. I now know that it takes quite a bit of time and effort and patience. So I think we all owe them a debt of gratitude."

KROUT "I don't think anybody knows what it means to get onto the Planning Commission until you get here, then it is too late."

FULP "Having experience in different environments, as most of the members of this board, I have to admire those that are leaving the board who particularly come from the building or realty industry. There are states, there are counties, and there are controlling authorities that see what they define as an inherent conflict of interest with anyone in the real estate industry or construction industry or the construction industry being on a Planning Commission, and they have laws and ordinances to prevent such. But I would like to say that it is my observation as one of the newer members is that I have seen objectivity by every member of this board, regardless of what you do for a living. I am proud to have been associated with you."

I think although the image of this Commission in the general community is such that it is puppets of the builders, I know that, as being a member of this Commission, not to believe that. People can be objective, regardless of what they do. If any of you have ever sat around in a room of doctors, they do differ in opinion as to the approach, the diagnosis or the treatment, but in most cases their diversions of opinion is objective. That is a challenge for anyone, Marvin, for anyone who sits on this board that comes from the realty industry or the construction industry. Those of us who take the time to volunteer, the numerous hours we spend here, and Lord knows these meetings are not short, I think we have done an overall magnificent job. I want to thank you for that."

7. Follow-Up discussion on the Unified Zoning Code Amendments

Ray Ontiveros opened with a brief presentation on the need to set a schedule for determining the preferred land use option and for getting to the point of updating plans, goals, objectives, and strategies.

HAGGAR suggested a training session or presentation on the plan and its processes/procedures as it applies to elected officials, staff and general public. Because some of the issues raised in the Comprehensive Plan are being discussed in the community

currently, the MAPC should be part of discussions with the Wichita City Council and County Commission. He said they need to know what the plan update is about and where we are going.

MCKAY said he felt that the MAPC, Wichita City Council and County Commission should meet and discuss the plan before November. He felt it would be too late to bring the decision-makers in so late.

OSBORNE-HOWES agreed that the Planning department should give the presentation to all three bodies. New MAPC members need to be brought up-to-date.

MAPD staff said the proposed schedule shows meetings with the elected officials in July. Staff agreed that joint meetings should be held beginning next month.

WARREN stated that he believed the community meetings only included the opinions of a few members of the community. He said the questions posed by staff were biased. More representation by the building and construction industry was needed.

MAPD staff said that the nine community meetings were part of the input. Other sources of feedback were the stakeholders' meetings, the survey, and 19 special presentation meetings.

WHEELER said she felt the community meeting questions were biased and that stakeholder input needed to be included.

OSBORNE-HOWES said all new Commissioners who have joined the MAPC in the past year should be brought up-to-date.

Discussion then ensued regarding the contract between the two scenarios and how they are being played against each other. Staff responded that it is the job of the Commissioners to synthesize all of the input and choose a preferred vision, which could even include the best features of both. The ability of the market to support downtown housing was also questioned by **MCKAY**.

MOTION: That the schedule be accepted and that the Planning Commission have a joint meeting with the City Council and the County Commission.

PLATT moved, **MCKAY** seconded the motion, and it carried unanimously (8-0).

The meeting unofficially adjourned at 4:55 p.m.

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 1999.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)